STATE OF INDIANA

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MEMORANDUM

TO: County Auditors and County Council Members

CC: County Commissioners and City/Town Executives

FROM: Cheryl A.W. Musgrave, Commissioner

DATE: November 7, 2008

SUBJECT: Local Option Income Tax (LOIT) Rates

The purpose of this memorandum is to notify counties that the Department of Local Government Finance ("DLGF") hereby gives counties that adopted LOIT for levy freeze in 2007 the *option* of imposing a lower Local Option Income Tax (LOIT) rate to account for the changes made in HEA 1001 (P.L. 146-2008) to the state's assumption of local property tax levies and the removal of the requirement that DLGF and the Department of Revenue (DOR) round the tax rate upward.

The reason for granting this option to counties to reduce LOIT rates is to reflect the approval by the General Assembly of legislation that ended the county's authority to levy property taxes for certain funds. Specifically, the state's assumption of the local child welfare costs occurred during the first year that numerous counties imposed the new LOITs. Since the county adopted its year 2 rate before passage of the new law, the year 2 rate includes a tax rate to fund two years' worth of welfare levy growth. As the state is now paying the local welfare costs this means the LOITs previously adopted for levy freeze will now generate too much revenue. In recognition of this issue, the General Assembly required LOIT used to fund child welfare levy growth in year 1 instead be used to provide homestead property tax credits. IC 6-3.5-1.5-1(d). However, the General Assembly made no provision for LOIT used to fund child welfare levy growth in year 2. As a result, the year 2 LOITs will generate too much revenue to pay for the levy freeze and any excess will be deposited into the county stabilization fund. IC 6-3.5-1.1-24(o).

HEA1001 (P.L. 146-2008) also removed the requirement that DLGF and DOR round up to the nearest tenth when certifying the levy freeze LOIT rates. This means the new tax rates certified by DLGF and DOR (starting in year 2) will be lower than those previously certified. Thus, DLGF and DOR's original year 2 certification is too high. As a result, DLGF and DOR need to re-certify a year 2 LOIT rate, giving the counties the option to adopt this lower rate sometime this fall. IC 6-3.5-1.5-3.

This memorandum grants counties the option of imposing a lower LOIT rate to prevent the collection of excess LOIT revenues for the reasons stated above. As a consequence of the granting of this option to counties, the previously issued certification of LOIT rates to counties sent a couple of months ago should be disregarded. Updated reports with the new, lower LOIT rate that is eligible to be adopted by counties, are attached to this correspondence.

Concerning the excess revenue used to fund child welfare levy growth in year 1, if a county has an existing Property Tax Relief LOIT, this revenue will instead be used to provide property tax credits in the same way (among the three credit options) as the existing Property Tax Relief LOIT, unless a new ordinance is passed to the contrary. For a county that does not have an existing Property Tax Relief LOIT #2 (this is only Marion County), they will need to select a credit type (or combination of credit types).

If you have any questions about this memorandum, please contact John Mallers, Budget Division Director, at (317) 234-3937 or jmallers@dlgf.in.gov.